IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION Nos.19636, 19637 & 19674 of 2004

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WRIT PETITION No: 19636 of 2004

Between:

Kukkala Veerabhadra Rao, S/o. Veeranna,
R/o. Devarapalli Village & Mandal, W.G.District.

..... PETITIONER

AND

1 The Collector and District Magistrate, West Godavari District, Eluru.
2 The Government of A.P., rep. by its Chief Secretary, Hyderabad.
3 The Superintendent of Central Prison, Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Habeas Corpus Under Art 226 of the Constitution of India directing the Respondents to produce the detenu Sri Kukkala Satyanarayana S/o. Veeranna, now detained in Central Prison, Rajahmundry before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents: THE ADVOCATE GENERAL

WRIT PETITION No: 19637 of 2004

Between:

Nimmakayala Kalavathi,

W/o Nimmakayala Paramesu
R/o Indira Colony,

Parvathipuram (T) & (V),

Vizianagaram district.

..... PETITIONER

AND

1 The Collector and District Magistrate, Vizianagaram District.
2 The Government of Andhra Pradesh., rep by Chief Secretary, Hyderabad.
3 The Superintendent of Central Prison, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Hebeas Corpus Under Art 226 of the constitution of India directing the Respondents to produce the detenu Sri Nimmakayala Paramesu S/o Pedaramaswamy, now detained in Central Prison, Visakhapatnam before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents: THE ADVOCATE GENERAL

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WRIT PETITION No: 19674 of 2004

Between:

Ketha Nagamani, W/o Kotha Apparao,
r/o Alcot Gardens, Rajahmundry, East Godavari Disrict.

..... PETITIONER

AND

1 The Collector and District Magistrate, East Godavari, Kakinada.
2 The Government of Andhra Pradesh, rep. by Chief Secretary, Secretariat, Hyderabad.
3 The Superintendent, Central Prison, Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Art. 226 of the Constitution of India directing the Respondents to produce the detenu Sri Ketha Apparao S/o Venkata Narayana now detained in Central Prison, Rajahmundry, before this Hon'ble Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following:

ORAL COMMON ORDER:

All the three cases can be disposed of by a common order as primarily basic contention is raised stating that the detenu was not informed that he has a right of representation to the detaining authority and therefore, it is contrary to the judgment of the Supreme Court reported in **KAMALESH KUMAR ISHWAR DAS PATEL v UNION OF INDIA** and **UNION OF INDIA v SNEHA KHENKA.**

The detention orders were passed under the provisions of Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits Drug Offenders,

Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986. But however, we need not refer to the grounds in each case, as in all the impugned detention orders the detaining authority did not state that the detenu has a right of representation to the detaining authority. Even though number of contentions were taken in the counter by the Government for sustaining the detention order, inasmuch as at the threshold, the detention orders have to be set aside on the ground that the detenus have not been informed by the detaining authority that they have a right of representation to the detaining authority, which is in violation of Article 22(5) of the Constitution of India as held by the Supreme Court in the decision supra. On this ground alone, without going to other contentions, the detention orders are quashed.

In the result, all the three Writ Petitions are allowed and the respective detenus and the respective detention orders are hereby quashed and the detenus in all these three Writ Petitions shall be set at liberty forthwith, if they are not required in any other case.

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(G. BIKSHAPATHY, J.)

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(CH.S.R.K. PRASAD, J.)

Date: 11-11-2004

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That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Thursday the Eleventh day of November Two thousand and Four.**

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ASSISTANT REGISTRAR

To

1 The Collector and District Magistrate, West Godavari District, Eluru.
2 The Chief Secretary, Government of A.P., Hyderabad.
3 The Superintendent of Central Prison, Rajahmundry.

4. 2 CCs to the Advocate General, High Court of A.P., Hyderabad (OUT).

5. 2 CD copies.